

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
BRIEF**

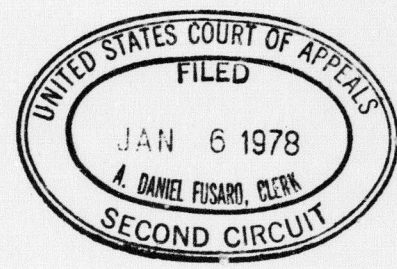
77-6204

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

-----X
John V. Collins,
Plaintiff-Appellant,
v.
United States of America,
Defendant-Appellee.
-----X

CIVIL APPEAL
Docket No. 77-6204

B
p/s



PLAINTIFF- APPELLANT'S BRIEF

Plaintiff-appellant went into District Court F.D. N.Y. seeking to have the Federal Reserve Act of 1913 declared unconstitutional in that said act "granted to private parties (commercial banks) a power that had been reserved exclusively to Congress by the Constitution; namely, the power to coin money." (Docket Index 5, page 2, A Claim Upon Which Relief Can Be Granted).

District Court dismissed complaint on grounds that:

- a) Plaintiff was requesting an "advisory opinion" rather than presenting a "case or controversy" and Court therefore lacked jurisdiction. (Docket Index 7, page 2)
- b) Plaintiff lacked "standing." (Docket Index #7, page 3)
- c) District Court found Federal Reserve Act constitutional for reasons that plaintiff's challenge "is premised on

the incorrect assumption that whoever prints ('creates') the money owns the money." (Docket Index #7, bottom of page 2).

The plaintiff-appellant believes the District Court to be in error in both fact and/or law as follows:

A. ADVISORY OPINION:

By no stretch of the imagination can plaintiff's demand for a declaratory judgment predicated upon an alleged violation of the Constitution (see Docket Index #5, A Claim Upon Which Relief Can Be Granted, page 2) be considered a request for an advisory opinion.

To support its contention of an "advisory opinion" request District Court quotes (Docket Index #7, page 1 a) a rhetorical question posed by plaintiff in a foredoomed, but necessary, motion for default. Plaintiff-appellant may well ask where District Court would have found such a rhetorical question had defendant replied on time and default judgment motion was not necessary?

The arguments presented by plaintiff in motion for default were arguments to explain defendant's failure to respond and no more. Their relevance was limited to the motion for default and that relevance died when the motion was denied. Court should have then proceeded to arguments presented on the issue supplied by plaintiff in Docket Index #5, Plaintiff's Response and Objections to Defendant's Motion For Dismissal).

B. "STANDING":

1. As Taxpayer:

District Court ruled plaintiff-appellant has no

"standing" as a taxpayer citing *Flast v. Cohen* (392 US 83, 1968).

The facts and law show that *Flast v. Cohen* proves plaintiff-appellant's standing rather than disproves it.

In *Flast v. Cohen* the Court decided that taxpayers had standing to contest the expenditure of federal moneys to assist religious-affiliated educational organizations in that (Justice Warren speaking for the Court) the establishment clause of the First Amendment "operates as a specific constitutional limitation upon the exercise in Congress of the taxing and spending power".

Continuing, Justice Warren states: "whether the Constitution contains other specific limitations (beyond the establishment clause) can be determined only in the context of future cases".

Collins v. USA is just such a "future" case.

Plaintiff-appellant holds that the Constitution grants to Congress the power to coin (create) money. It does not provide for a private party to coin money and then rent that money to Congress into eternity, with the rental fees being paid out of general tax revenues. In short, in *Collins v. USA*, just as in *Flast v. Cohen* the Constitutional power to Congress to coin money "operates as a specific constitutional limitation upon the exercise in Congress of the taxing and spending power". To put it succinctly: *Flast v. Cohen* established the precedent that a taxpayer has standing to challenge the use of taxes to finance unconstitutional Acts.

2. Inflationary Diminution of Income:

District Court ignored plaintiff-app-

ellant's contention (Docket Index #5, Page 4, Harm To Plaintiff) that he had "standing" from having suffered great harm from inflationary diminution of income arising from excessive creation of money by commercial banks.

in (Atkins, et al U.S. Ct of Clms 41-76)
 Plaintiff-appellant holds that if 140 district and circuit judges were adjudged to have sufficient standing, because of inflationary diminution of income, to try the issue that such inflation constituted a violation of Article 3, Sec. 1 of the Constitution that the compensation of said judges "shall not be diminished during their continuance in office" then the plaintiff-appellant also has sufficient standing to try an alleged constitutional violation that is the root cause of that inflation, particularly so in that the plaintiff-appellant, so far as inflationary diminution of income is concerned has been described by the Court as "brethren" of said jurists (Ibid p.18).

C. CONSTITUTIONALITY OF FEDERAL RESERVE ACT OF 1913:

1. The District Court finds the Federal Reserve Act to be constitutional in that "plaintiff's complaint is premised on the incorrect assumption that whoever prints ('creates') the money owns the money" (Docket Index #7, bottom of page 2).

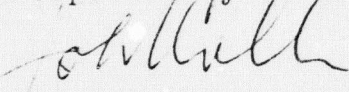
The only incorrect assumption here is that of the District Court in equating "print" and "create". That is as illogical as equating "publisher" and "author". The plaintiff-appellant never stated that the printer is the owner, he did state that the creator is the owner. The Court's inconsistency arises from the Court failing to take note of the precise definitions of terms involved in this issue, as clearly set forth in Docket Index #5.

2. Continuing on (Docket Index #7, bottom of page 2) the District Court does not challenge plaintiff's allegation that commercial banks have been given the power to create money but, rather, acknowledges this fact and finds that the Federal Reserve Act is Constitutional because "the member banks 'create' the currency for (the underline emphasis is the Dist. Court's) the government not instead of the government."

The defendant USA could settle this argument very easily by just telling the Court when was the last time the defendant went to the banks and picked up (not borrowed) some of that currency the District Court believes the banks are creating for the government.

The sad fact is that the banks are creating the money for themselves and then lending it to the defendant when the defendant should be creating it for himself, as empowered by the Constitution. Which is exactly why the plaintiff-appellant is in court seeking and end to this unconstitutional act that has built up a national debt of 700 billion with a yearly debt service charge, raised through taxes, of 43 billion.

Respectfully submitted,


John V. Collins
Plaintiff-Appellant
1042 Carll Drive
Bay Shore, N.Y. 11706

Dated the 29th of December, 1977

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JOHN V. COLLINS

THE COLLINS THEORY — THE ECONOMIC OUTLOOK

1042 Carll Drive
Bay Shore, New York

28 Dec 77.

Cert. Mail #801704 R.R.R.

Mr. A. Daniel Fusaro
Clerk, U.S. Court of Appeals, Second Circuit
U.S. Courthouse
Foley Square
NY*10007-NY

Dear Mr. Fusaro;

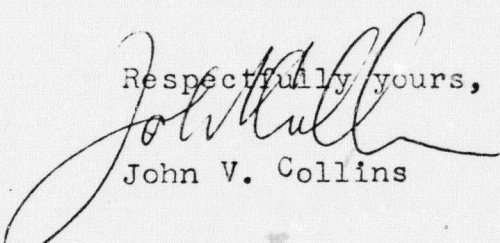
Re: Civil Appeal Docket #77-6204
Collins
v.
USA

Inasmuch as the above captioned case is a pro se proceeding and the plaintiff-appellant is physically incapable of travel the plaintiff-appellant herewith waives his right to oral argument and asks that the appeal be decided on the record and appeal brief (to be submitted).

The plaintiff-appellant has no objection to oral argument by the defendant.

Returned, herewith, enclosed is notice of appearance, time request and information form filled out to reflect the above facts.

Respectfully yours,


John V. Collins

Enc: 1 (two sheets): Plaintiff-appellant's brief and appendix added 12/29/77

cc: Prosper K. Parkerton
U.S. Attorney of Counsel
Cert. Mail #801705 RRR
Brief & Appendix added 12/29/77

